

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF OLDHAM COUNTY WATER)	
DISTRICT NO. 1 TO DEVIATE FROM CERTAIN)	CASE NO. 90-228
PUBLIC SERVICE COMMISSION RULES AND)	
REGULATIONS)	

O R D E R

Oldham County Water District No. 1 ("Oldham No. 1") is a water district organized pursuant to KRS Chapter 74. As such, pursuant to KRS 278.015, it is a utility subject to the jurisdiction of the Commission. In 1964, Oldham No. 1 was granted a certificate from the Commission in Case No. 4407¹ and rates were established. Oldham No. 1's tariff currently on file with the Commission shows an issue date of 1969, with effective dates for the rules and regulations going back to 1964. Each page of the tariff is date-stamped as checked by the Commission on December 17, 1970.

In July of 1964, prior to entry of the Commission's Order in Case No. 4407, Oldham No. 1 entered into a lease agreement, which is attached hereto as Exhibit A and incorporated by reference herein, with the Louisville Water Company ("LWC"). Under the

¹ Case No. 4407, The Application of Oldham County Water District No. 1 for: (1) A Certificate of Public Convenience and Necessity; (2) Order Authorizing Issuance of Bonds; and (3) Order Authorizing Rate Tariff.

terms of the lease agreement, Oldham No. 1 agreed to construct a distribution system and lease the entire water distribution system to LWC, a municipal utility not subject to the jurisdiction of the Commission, for a term of 40 years. LWC agreed to supply water to Oldham No. 1, to operate the water distribution system at its expense, and to charge customers of Oldham No. 1 the retail rates normally charged by LWC to its own similarly situated customers. The lease agreement provided that, in addition to regular rates for water service, LWC would collect a surcharge from Oldham No. 1 customers sufficient to amortize the indebtedness incurred by the district to construct the distribution system. The terms of the lease agreement give LWC virtually total operational control over Oldham No. 1.

Over the years, Oldham No. 1 has taken the position that the lease agreement was approved in its entirety by the Commission in Case No. 4407. However, the Commission's October 19, 1964 Order in that case specifically states:

IT IS FURTHER ORDERED that the Lease and Agreement entered into by Oldham County Water District No. 1 and Louisville Water Company on July 9, 1964 is not approved insofar as said Lease and Agreement is in conflict with the jurisdiction of the Public Service Commission of Kentucky over the rates and services (including extensions not in the usual course of business) of Oldham County Water District No. 1 as well as the rules and regulations of the Public Service Commission applicable to all water utilities.

Despite this language, Oldham No. 1 has maintained over the years that its rates, rules and regulations are controlled by its lease agreement with LWC, and, in the event of any conflict

between the terms of the lease agreement and Commission statutes and regulations, the provisions of the lease agreement prevail.

On June 20, 1990, Commission Staff issued a Utility Inspection Report ("Staff's Report") citing several "deficiencies" - instances in which Oldham No. 1 is not in compliance with Commission regulations. As a result of Staff's Report, on August 2, 1990, Oldham No. 1 applied for Commission approval to deviate from certain Commission rules and regulations, thus initiating this proceeding. By Order dated October 5, 1990, the Commission broadened the scope of the proceeding to include an investigation into the deficiencies listed in Staff's Report. In that Order, the Commission also merged a tariff filing made by Oldham No. 1 on September 18, 1990 into this proceeding.² The Commission's Order further directed Oldham No. 1 to respond to requests for information contained in the Order.

On January 3, 1991, an informal conference was held in the Commission's offices with representatives of Oldham No. 1 and LWC. The response of Oldham No. 1 to the Commission's October 5, 1990 data request was discussed, and Oldham No. 1 agreed to provide the Commission with further information requested by Staff. That information was filed with the Commission on January 23, 1991. The Commission subsequently issued another data request to Oldham No. 1 by Order dated May 29, 1991. The information requested was filed with the Commission on June 24, 1991, and on August 13,

² The tariff sheets filed by Oldham No. 1 propose to increase its reconnection charge from \$2.00 to \$11.00 and its returned check charge from \$2.00 to \$10.00.

1991, another informal conference was held to discuss Oldham No. 1's response.

The Commission's investigation herein has encompassed three different areas: the deficiencies cited in Staff's Report; provisions of Oldham No. 1's tariff which are inconsistent with Commission regulations; and potential problems with Oldham No. 1's adherence to rules and regulations of LWC which are inconsistent with Commission regulations. These three areas are addressed separately below, as are statutory violations involving unauthorized charges.

STAFF'S REPORT

In Oldham No. 1's letter received at the Commission on August 2, 1990, it made a general request for permission to deviate from all Commission regulations which were allegedly violated by the deficiencies listed in Staff's Report.³ The pertinent regulations, and the Commission's findings with respect to each requested deviation, are as follows:

1. 807 KAR 5:006, Section 21. This regulation permits any customer of a utility to request the Commission to perform a meter test after having first obtained a test from the utility. Staff's

³ In addition to Oldham No. 1's letter of August 2, 1990, which requested deviations by general reference to the deficiencies listed in Staff's Report, by letter filed at the Commission on January 23, 1991, Oldham No. 1 specifically requested a deviation from 807 KAR 5:066, Section 6(3) (monitoring of system pressure, discussed in paragraph 4); 807 KAR 5:066, Section 5(4) (water storage, discussed in paragraph 2); and 807 KAR 5:066, Section 7(1) and (2) (monitoring quantity of water going through the master meter, discussed in paragraph 3).

Report stated that Oldham No. 1 does not inform its customers of their right to request the Commission to perform this test.

Oldham No. 1, in its December 2, 1990 response to the Commission's data request, included an "Exhibit D" which appears to be a letter to the utility's customers informing them of their rights with respect to meter testing. This letter satisfies the requirements of the regulation and, as such, no deviation is needed.

2. 807 KAR 5:066, Section 5(4). This regulation requires each utility to provide water storage to ensure a minimum of one day's supply of its average daily water usage. Staff's Report stated that Oldham No. 1 does not own any water storage facility to ensure providing a maximum of one day's supply of its average daily water usage.

On January 23, 1991, Oldham No. 1 filed with the Commission an application for a deviation from the water storage requirement of this regulation, together with supporting documentation and a letter from LWC assuring the availability of water storage capacity to Oldham No. 1 sufficient to meet its daily water consumption. In said letter, dated January 15, 1991, LWC commits to provide the storage for a period of 13 years. The Commission, after reviewing the information provided by Oldham No. 1, finds that Oldham No. 1 should be granted a deviation from 807 KAR 5:066, Section 5(4).

3. 807 KAR 5:066, Section 7(1) and (2). This regulation requires each utility to install a suitable measuring device at each source of supply, to keep at least monthly records of the

quantity produced from each source of supply, and to transmit the information to the Commission in the utility's annual report. Staff's Report stated that Oldham No. 1 does not have a measuring device at each source of supply and does not keep a record of water purchased as required by this regulation.

Oldham No. 1 is somewhat unique in that the utility does not purchase its water from a supplier for resale to its customers, but rather the customers are supplied directly by LWC. LWC maintains the records of water purchased by Oldham No. 1 customers. Inasmuch as Oldham No. 1 does not purchase water from LWC through a master meter, this regulation is inapplicable and the Commission finds that Oldham No. 1 should be granted a deviation from its requirements.

4. 807 KAR 5:066, Section 6(3). This regulation requires each utility, at least once annually, to make a survey of pressures in its distribution system of sufficient magnitude to indicate the quality of service being rendered at representative points in its system. Staff's Report stated that the pressure surveys performed by Oldham No. 1 on an as-needed basis do not meet the requirements of this regulation.

In response to data requests from Commission Staff, Oldham No. 1 provided detailed information concerning monitoring of pressure in the district. Specifically, the water level of the Crestwood water storage tank is measured continuously by LWC and recorded on a 7-day chart. Oldham No. 1 informed Staff that it also has access to LWC's portable pressure gauges to monitor representative points in its system. The Commission, after

reviewing the information provided by Oldham No. 1, finds that LWC's pressure monitoring procedures provide adequate and accessible information on the water pressure in Oldham No. 1's system, and that Oldham No. 1 should be granted a deviation from the pressure survey requirements of 807 KAR 5:066, Section 6(3).

5. 807 KAR 5:066, Section 17(1). This regulation requires utilities to test periodically all water meters so that no meter will remain in service without test for a period longer than specified in the regulation. Staff's Report stated that Oldham No. 1 does not have a meter test program to test all meters periodically.

In response to Commission data requests, Oldham No. 1 provided detailed information concerning LWC's meter test program and methodology. After reviewing the information provided by Oldham No. 1, the Commission finds that LWC's meter test program provides adequate and reliable data to ensure an appropriate level of overall accuracy of Oldham No. 1's meters. The Commission therefore finds that Oldham No. 1 should be granted a deviation from 807 KAR 5:066, Section 17(1), provided that it obtains from LWC and files with the Commission a statement from LWC confirming that LWC is now testing meters pursuant to AWWA standards.

6. 807 KAR 5:066, Section 12(1). This regulation requires a utility to make an extension of 50 feet or less to its main without charge for a prospective customer who applies for and contracts to use service for one year. Staff's Report stated that Oldham No. 1's extension policy, which requires all prospective

customers to pay the total cost of any main extension, is inconsistent with this regulation.

After reviewing Oldham No. 1's extension policy, the Commission finds that Oldham No. 1 should present additional evidence, at a hearing to be scheduled herein, in support of its request for a deviation from 807 KAR 5:066, Section 12.

7. 807 KAR 5:006, Section 12, and 807 KAR 5:011, Section 10. 807 KAR 5:006, Section 12, permits a utility to make a reasonable charge to customers for collecting delinquent bills and for disconnection/reconnection of customer service, but requires the utility to include the charges in its rules and regulations and to obtain prior approval for the charges from the Commission. 807 KAR 5:011, Section 10, defines non-recurring charges and sets out a procedure for a utility to seek a rate revision for a non-recurring charge outside a general rate proceeding. According to Staff's Report, Oldham No. 1 is charging the following non-recurring charges which have not been approved by the Commission and are not on file in Oldham No. 1's currently effective tariff: a disconnect/reconnect fee of \$11 if collected at the customer's home and \$22 if an additional trip for reconnection is required; a \$10 returned check charge; and a \$750 tap fee. As previously noted, Oldham No. 1, subsequent to Staff's Report, filed tariff sheets requesting Commission approval of the \$11 disconnect/reconnect charge and the \$10 returned check charge.

Although the charges described in this paragraph may have been collected in violation of the cited regulations, collection of unauthorized charges also constitutes a statutory violation of

KRS 278.160. The Commission has authority to grant deviations from its regulations for good cause shown, but it has no authority to grant deviations from statutory requirements. Therefore, collection of these charges will be addressed elsewhere in this Order.

OLDHAM NO. 1'S CURRENT TARIFF

Oldham No. 1 has a currently effective tariff on file with the Commission. The tariff is date-stamped filed with the Commission on December 17, 1970, over 20 years ago. A review of the tariff reveals that the following tariff provisions are inconsistent with current Commission statutes or regulations:

1. Section 1.28. This section allows Oldham No. 1 to discontinue service to a delinquent account not less than 15 days after the original billing. It is inconsistent with 807 KAR 5:006, Section 11(1)(3)(a), which provides that discontinuance of service for nonpayment of bills shall not be effected before 20 days after the mailing date of the original bill.

LWC performs all regular billing services for Oldham No. 1. LWC's "Service Rules and Regulations," effective June 1990, provide that a notice shall be sent by LWC to a delinquent account not less than 15 days after the original billing. Said notice states that the account is overdue and sets forth a day, not less than seven days after the date of the notice, after which service will be discontinued. Thus, LWC's own regulations provide for a minimum period of 22 days from the mailing of the original bill before service may be discontinued. The Commission finds that Oldham No. 1 should appear at a hearing to be scheduled herein and

present evidence as to why it should not be required to revise its tariff to bring it into compliance with 807 KAR 5:006, Section 11(1)(3)(a), and consistent with the actual practice of LWC.

2. Section 1.30. This section provides that if a customer violates Oldham No. 1's rules and regulations governing the introduction, supply and consumption of water, and continues to do so after being notified of the violation by Oldham No. 1, service will be discontinued and a fine imposed. This fine is in addition to all actual expenses attending the discontinuance of service. Service will not be reconnected until the fine is paid.

807 KAR 5:006, Section 12, allows a utility to collect the actual expense of disconnecting service, if the charge has been approved by the Commission, but states that the charge shall yield only enough revenue to pay the expenses incurred in rendering the service. This tariff provision is inconsistent with the regulation in that it allows the utility to impose a fine as well as collect the expenses attending the shut-off. In addition, the amount of the fine is not identified in the tariff.

After reviewing the record before it, the Commission finds that Oldham No. 1 should appear at a hearing to be scheduled herein and present evidence as to why it should not be required to revise its tariff to eliminate the imposition of this fine.

3. Section 3.04. This section requires an applicant for a main extension to pay the entire cost of the extension. Thereafter, as others tap on to the extension, the district refunds to the party who built the extension a sum "approximately

equal to the cost of 50 lineal feet of such extension but not exceeding \$250."

The section would be consistent with 807 KAR 5:066, Section 12(3), if it specified that it applied only to applicants for extensions who are developers, as opposed to individual applicants. However, in its June 24, 1991 response to the Commission's data request, Oldham No. 1 stated that it does not intend that this section apply only to developers of subdivisions. As such, the section is inconsistent with Commission Regulation 807 KAR 5:066, Section 12(1), which requires a utility to make an extension of 50 feet or less to its main without charge to a prospective customer who applies for and contracts for service for one year. Consistent with its previous response to Oldham No. 1's request for a deviation from this regulation, the Commission finds that Oldham No. 1 should appear at a hearing to be scheduled herein and present evidence as to why it should not be required to revise its tariff to bring it into compliance with the regulation.

The provision of Section 3.04 which establishes a limit of a \$250 refund to the party who paid for the extension for each additional tap-on is also inconsistent with 807 KAR 5:066, Section 12. The regulation does not provide for such a limit.

The Commission finds that Oldham No. 1 should appear at a hearing to be scheduled herein and present evidence as to why it should not be required to revise its tariff to eliminate the \$250 cap.

LWC'S RULES AND REGULATIONS

In its June 24, 1991 response to the Commission's data request, Oldham No. 1 stated that LWC's "Service Rules and Regulations" did not apply to Oldham No. 1's customers. However, to the extent that Oldham No. 1 may be complying with those rules and regulations, the Commission finds that the following provisions are inconsistent with Commission statutes or regulations:

1. Section 1.34. This section provides that if an account is delinquent at one premises, service may be terminated at that premises and any other premises where service is provided to the same customer. This is in conflict with the Commission's interpretation of 807 KAR 5:006, Section 11, which permits termination of service only at the premises where the account is delinquent.

2. Section 7.02. This section is inconsistent with KRS 278.460 in that it provides that no deposit held by the utility for less than a full 12 months shall earn interest. In addition, the method under which interest accrues is inconsistent with the Commission's Order in Case No. 89-057.⁴

The Commission finds that, if Oldham No. 1's practices are in conformity with those described in paragraphs 1 and 2 above, it should immediately cease and desist from the practices.

⁴ Case No. 89-057, Investigation into the Customer Deposit Policy of Kentucky Power Company.

ALLEGED STATUTORY VIOLATIONS - UNAUTHORIZED CHARGES

Meter Tap Fees

In its December 21, 1990 response to the Commission's data request, Oldham No. 1 provided a schedule of charges for meter tap fees. The schedule, which is attached hereto as Exhibit B and incorporated by reference herein, indicates that Oldham No. 1's meter tap fee is a combination of a charge collected by LWC and one collected by Oldham No. 1. LWC's fee varies according to meter size, and can be assumed to be based on the average actual expense of installing the meter. Oldham No. 1's charge is a flat fee of \$300 for all sizes of meters.

The tap fees set out in Oldham No. 1's tariff, filed with the Commission in 1970, are considerably less than the fees listed in Exhibit B which are currently being collected. In its June 24, 1991 response to the Commission, Oldham No. 1 stated that the \$300 which it retains from each tap-on fee was not considered a tap fee, per se, by the district at the time it was established. Rather, it was considered an "enrollment" or "good faith deposit" paid prior to construction of the system by people wanting to obtain water. These monies were applied against the initial construction costs of the project. It soon became evident, according to Oldham No. 1, that since Commission rules require the district to provide refunds for main extensions, the district would need additional income for this purpose. According to Oldham No. 1, at the suggestion of then Chairman Heman, in conference with representatives of LWC and the district's commissioners, it was decided that the district should set a tap

fee of \$400. Of this amount, \$300 went to Oldham No. 1 and \$100 to LWC. The district would use \$250 of the \$300 to make extension refunds and retain \$50. With this procedure, customers coming on after the system was operational would not come on line at a lower cost than did the original supporters of the project, in accordance with provisions in Oldham No. 1's 1964 lease with LWC.

In 1969, the Commission approved the \$400 tap fee. The \$300 of this amount which the district retains has not been changed since 1969. However, LWC has increased its charges as costs have increased over the years, resulting in the total higher tap-on fees. For example, for a 3/4" meter, in 1969 Oldham No. 1 retained \$300 and \$100 went to LWC. Currently, the total charge for a 3/4" meter is \$750, with \$300 going to the district and \$450 going to LWC.

KRS 278.160 requires each utility to "file with the commission. . .schedules showing all rates and conditions for service established by it and collected or enforced." The statute further provides:

No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

It is clear from the information supplied by Oldham No. 1 that it incurs no expense in making service taps; this expense is incurred wholly by LWC. Of the \$300 fee, \$250 is refunded to the party which paid for construction of the extension, while the \$50

retained by Oldham No. 1 is deposited in its Water Works Revenue Fund to be used for future expansion of the system.

KRS 278.0152(2) authorizes a water utility to charge a tap fee, and details the charges that a tap fee "shall include." These are "charges for a service tap, meter, meter vault, and installation thereof." In addition, tap fees are described in 807 KAR 5:011, Section 10, as charges "intended. . .to recover the specific cost of the activity."

From the foregoing, the Commission finds that a prima facie showing has been made that Oldham No. 1 has violated KRS 278.160 by charging compensation for its meter tap fees greater than that prescribed in its filed tariff. The Commission further finds that a prima facie showing has been made that Oldham No. 1 has violated KRS 278.015(2) by including charges in its tapping fee which are not based on expenses incurred in making the tap, and which are not authorized by the statute.

Disconnect/Reconnect Fee and Returned Check Charge

As previously discussed, Oldham No. 1 is currently charging a disconnect/reconnect fee of \$11 if collected at the customer's home and \$22 if an additional trip for reconnection is required, while its tariff prescribes charges for this service of only \$2 and \$4, respectively. Oldham No. 1 is also charging a fee of \$10 for returned checks, while its tariff prescribes a \$2 charge. According to statements made by representatives of Oldham No. 1 at the informal conference held on January 3, 1991, Oldham No. 1 has been charging these fees since January of 1990.

The Commission finds from the foregoing that a prima facie showing has been made that Oldham No. 1 has violated KRS 278.160 by collecting charges for these services not authorized in its currently effective tariff.

Water Service Rates

Oldham No. 1's customers are charged the same rates as those paid by customers of LWC.⁵ Although Oldham No. 1 has increased its rates over the years commensurate with increases in LWC's rates, it has not followed the procedure for a rate change prescribed in KRS 278.180. These rates, a schedule of which is attached hereto as Exhibit C and incorporated herein by reference, are in excess of those set out in Oldham No. 1's currently effective tariff on file with the Commission.

The Commission finds from the foregoing that a prima facie showing has been made that Oldham No. 1 has violated KRS 278.160 by collecting compensation for water service greater than that prescribed in its filed tariff.

TARIFF FILING

Oldham No. 1 filed cost justification supporting its tariff filing of September 18, 1990, wherein it proposes to increase its reconnection charge from \$2 to \$11 and its late payment charge from \$2 to \$10. Having reviewed the documentation provided by

⁵ In addition to LWC's regular rates, Oldham No. 1 customers also pay a \$4 surcharge per month for water service for the purpose of amortizing the indebtedness incurred by Oldham No. 1 in constructing its distribution system. From the information contained in the record, it does not appear this surcharge has been increased since the \$4 fee was set out in Oldham No. 1's 1970 tariff.

Oldham No. 1, the Commission finds that the amount of the non-recurring charges is reasonable and will allow the district to recoup the cost involved in performing the services. It therefore finds that the proposed non-recurring charges are fair, just, and reasonable and should be approved.

IT IS THEREFORE ORDERED that:

1. The non-recurring charges proposed by Oldham No. 1 and shown in Appendix A, attached hereto and incorporated herein, are approved for services rendered on and after the date of this Order. Oldham No. 1 shall file revised tariff sheets for its disconnect/reconnect charge and returned check charge which contain an effective date of the date of this Order, which are signed by an officer of the utility, which replace the word "fine" with "charge," and which eliminate the word "penalty."

2. Oldham No. 1's request for a deviation from 807 KAR 5:006, Section 21, is hereby denied as moot, inasmuch as Oldham No. 1 has complied with the regulation by notifying its customers of their rights with respect to meter testing.

3. Oldham No. 1's request for a deviation from the water storage requirements of 807 KAR 5:066, Section 5(4), is hereby granted, effective until January 15, 2004, or as long as its January 15, 1991 agreement with LWC remains in effect.

4. Oldham No. 1's request for a deviation from 807 KAR 5:066, Section 7(1) and (2), is hereby granted.

5. Oldham No. 1's request for a deviation from 807 KAR 5:066, Section 6(3), is hereby granted.

6. Oldham No. 1's request for a deviation from 807 KAR 5:066, Section 17(1), is hereby granted on the condition that Oldham No. 1 file with the Commission no later than 30 days from the date of this Order a statement from LWC confirming that LWC is now testing meters pursuant to AWWA standards.

7. Oldham No. 1 shall appear at a hearing scheduled for November 22, 1991 at 10:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, and be prepared to show cause why it should not be required to refund any unauthorized rates or charges collected in violation of KRS 278.160 and KRS 278.180, and/or be otherwise penalized pursuant to KRS 278.990 for violation of the cited statutes.

8. Oldham No. 1 shall also present evidence at said hearing as to:

(a) Why it should not be required to revise Section 1.28 of its tariff to bring it into compliance with the 20 day notice requirement of 807 KAR 5:006, Section 11(1)(3)(a).

(b) Why it should not be required to revise Section 1.30 of its tariff to bring it into compliance with 807 KAR 5:006, Section 12, by eliminating that portion of Section 1.30 which imposes a fine in addition to the actual expense of discontinuing service.

(c) Why it should not be required to revise Section 3.04 of its tariff to bring it into compliance with 807 KAR 5:066, Section 12(1), which requires a utility to make an extension of 50 feet or less to its main without charge to a prospective customer

who contracts for service for one year, and to further revise this section to eliminate the \$250 cap on refunds for additional tap ons.

(d) Why it should not be required to cease and desist from complying with any of LWC's service rules and regulations which are inconsistent with the Commission's statutes or regulations.

9. Oldham No. 1 may also present evidence at said hearing in support of its position that the terms of its lease agreement with LWC prevail over Commission statutes and regulations which conflict with those terms.

10. An informal conference in this matter is hereby scheduled for November 12 at 10:00 a.m., Eastern Standard Time, in Conference Room 2 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of stipulating to any issues of law and fact upon which the parties may agree.

Done at Frankfort, Kentucky, this 1st day of October, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director

Commissioner

L E A S E

THIS LEASE AND AGREEMENT made this 9th day of July, 1966, at Louisville, Kentucky, by and between OLDHAM COUNTY WATER DISTRICT NO. 1, a water district established pursuant to the provisions of Chapter 74 of the Kentucky Revised Statutes by the Oldham County Court on May 14, 1956, hereinafter referred to as the "District", and LOUISVILLE WATER COMPANY, a corporation, hereinafter referred to as the "Company";

W I T N E S S E T H I H A T:

WHEREAS, the boundaries of the District have been extended by orders entered by the Oldham County Court from time to time; and

WHEREAS, the water supply of the District is inadequate to serve customers in the District; and

WHEREAS, the District desires to extend its distribution system, which extension will be financed by a bond issue, and desires to obtain an adequate water supply from the Company and obtain for the customers located within the boundaries of the District adequate water service to be supplied by the Company; and

WHEREAS, the Company is willing to extend a water main into the District and is willing to undertake to supply water service to customers located within the District upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and One Dollar paid by the Company to the District and the further consideration of the mutual promises and covenants made herein, it is agreed between the District and the Company as follows:

1. The District, with funds procured by it through a bond issue, will proceed to construct a distribution system within the present boundaries of the District in accordance with the plans prepared by Proctor-Ingels and Associates, Inc., 915 South Limestone Street, Lexington, Kentucky, consulting engineers, which plans have been approved by the Company and which are attached hereto. Any changes in or modifications of the plans and specifications attached hereto shall only be made with the written approval of the Company.

2. The Company agrees to construct a feeder main from the Jefferson-Oldham County boundary line along the LaGrange Road through the District to a tract of land owned by the District, which is located in Crestwood, and to construct an elevated storage tank having a capacity of five hundred thousand gallons on such tract, together with booster pumping facilities sufficient to provide adequate pressure throughout the system at its expense.

3. The District hereby lets, leases and demises to the Company the entire water distribution system to be constructed pursuant to Section 1 hereof, and any extensions thereof which may be constructed during the term hereof, for a term of forty years beginning on the date of completion and acceptance by the Company, upon the terms and conditions hereinafter provided. At the end of the term hereof, the Company not being in default, may at its option extend the term of this lease for an additional period of sixty years. Such extension shall be effectuated by written notice from the Company to the District, given not less than one year prior to the expiration of the aforementioned forty-year term; and if the Company fails to exercise said option it shall

continue to supply water to the District, at the District's option, at rates then in effect for customers similarly situated.

4. During the term of this lease, or any extension thereof, the Company shall have the exclusive right to serve any and all customers located within the boundaries of the District. The Company agrees to supply the customers within the boundaries of the District an adequate water supply for domestic and commercial use and fire protection; provided, however, the Company shall not be in default under this Lease in the event that the water supply fails due to the breakage of mains, the failure of pumps, or any other cause beyond the Company's control.

5. The Company agrees at its expense to operate the water distribution system, beginning with the day that the physical facilities are turned over to and accepted by it, during the entire term of this Lease. The Company will perform all maintenance, make all repairs and replace all parts which are required to keep the system in proper operating condition. (Maintenance of the system shall include cutting of grass and weeds and other work necessary to maintain the grounds and access roads in the vicinity of the elevated tank or similar facilities.) The Company will read all meters, prepare and distribute all billings, and collect all charges for water service, including surcharges to all customers within the boundaries of the District.

6. The rates to be charged by the Company for water service within the District shall be the retail rates normally charged by the Company to customers in similar areas in Jefferson County. In addition to the water service rate charged by the Company, it will bill each customer a surcharge sufficient for the amortization of the indebtedness incurred by the District to

construct the extensions to the system as provided in Section 1, to establish adequate coverage of amortization requirements and reserves in connection therewith, to pay any necessary expenses of the District not covered by the obligations of Company hereunder, and to establish a fund for the purpose of making extensions and improvements to such system, which shall not be reduced without the consent of the District and the Company. The surcharge for the amortization of the District's indebtedness shall be such amount as the District directs the Company to charge, but in no event shall such amount be a lesser sum than is necessary (based on all information available at the time such charge is made) to pay amortization and interest on the District's indebtedness; provided, however, that after the first five years of this Lease, if, in the Company's opinion, the amount is insufficient for such debt service it may charge such additional amount as in its opinion may be necessary. The Company shall remit to the District by the twenty-fifth of each month the amount of the surcharge collected by it for the amortization of the District's indebtedness during the preceding month. The collection of such surcharge by Company shall be without expense to the District. Company agrees to discontinue water service in accordance with its regulations as to the discontinuance of service if its own charges are not paid as to any customer who does not pay such surcharge.

7. During the first year of this Lease, the Company agrees to pay to the District a sum which shall be equal to the amount by which the surcharges for the amortization of indebtedness collected during the first year is less than the amount required to meet the District's debt service requirement for that

year. Beginning with the second year of the lease and continuing through the fifth year, the Company agrees to pay to the District whichever is less of the following: (a) The amount by which the surcharges to amortize the District's indebtedness collected during such year is less than the amount required to meet the District's debt service for such year; or (b) One Dollar per month per meter customer.

8. The term "water distribution system," as used in Sections 1 and 3 of this Lease, include water mains, gate valves, gate valve boxes, air release valves, blow-offs, cut-off boxes, service pipes, meter vaults, meters, fire hydrants, steel cover pipes, easements and access roadways, and any other equipment and fixtures used or useful in connection with the operation of a water distribution system.

9. After the physical facilities of the water distribution system are delivered by the District to the Company, and accepted by the latter, the Company will install all service connections, meter vaults and meters to supply the individual consumers in the District who apply for water service, and may charge therefor the actual cost of such installation; provided, however, that in order that customers connecting to the system after its original installation may not be placed in a more favorable position than those who pay a connection charge for the privilege of connecting to the system prior to the completion of same, the District may make a connection charge for customers connecting to the system after its original installation to the extent at least that such new customers will not be placed in a more favorable position than customers who connected to the system

prior to the completion of the original system. The surcharge of the District may be imposed upon all such customers served pursuant to the provisions of this Paragraph 9.

10. The District warrants to the Company that it has the legal right to lay, construct and install water mains in and under the rights-of-way of all public roads and highways located within the boundaries of the District, and that the Company pursuant to this Lease shall have the right to remove, repair, or replace any water mains or parts thereof which are located within the rights-of-way of the public roads and highways within the District. The District further warrants to the Company that pursuant to this Lease, the Company shall have the right to lay, construct and install additional water mains in and under the rights-of-way of the public roads and highways located within the boundaries of the District.

11. During the term of this Lease, if the District desires to extend water mains within the district to serve additional consumers, it shall have the right to extend such mains at its expense; provided, however, such extensions and the plans and specifications for the laying, constructing and installing thereof shall first be approved by the Company. If during the term of this Lease, the Company desires to extend any main or mains in order to serve additional customers either within the boundaries of the District or outside the boundaries of the District, it shall first give the District notice of its desire to extend such main or mains. The District may, if it so desires, undertake the extension of such main or mains at its expense and must give the Company notice of its intention to do so within thirty days after having received notice from the Company of its desire to have such main or mains extended. If the District does not give the Company

notice that it desires to make such extension or extensions, or if after giving the Company notice that it desires to make such extension or extensions fails to begin construction thereof within thirty days, the Company shall have the right to make the extension or extensions desired by it and serve the consumers who may apply for service therefrom; provided, however, that, notwithstanding the foregoing, if it is necessary for the District to issue bonds in connection with financing such extensions by the District, Company shall have the right to make the extension or extensions desired by it and serve the consumers who may apply for service therefrom only if, after the District gives Company notice that it is desired to make such extension or extensions, District fails to begin construction thereof within 120 days.

As to all customers served by the original system installed by the District ^{W.C. R.S. 24E. 82} ~~and as to all customers served by the original system installed by the District~~ and as to all customers served by all extensions and improvements to such system, regardless of how such extensions or improvements are financed, District shall have the right to impose its regular surcharge and pledge same to secure the bonds initially issued by the District or issued thereafter for the purpose of making extensions and improvements to the water-works system of the District.

12. The District by and through its commissioners or an accountant selected by the commissioners may inspect the accounts of the Company insofar as those accounts relate to the collection of the surcharges which the Company, by Section 6 hereof, has agreed to collect for and remit to the District.

13. Any notices required to be given hereunder, if given to the Company, shall be addressed to the President,

Louisville Water Company, 435 South Third Street, Louisville, Kentucky 40202, and if given to the District shall be addressed to the Chairman, Oldham County Water District No. 1, Crestwood, Kentucky.

IN TESTIMONY WHEREOF, the OLDHAM COUNTY WATER DISTRICT NO. 1 has caused this instrument to be executed by its Chairman duly authorized by a resolution adopted by its commissioners, and the LOUISVILLE WATER COMPANY has caused this instrument to be executed by its President duly authorized by a resolution of the Board of Water Works of the City of Louisville, the day and year first hereinabove written.

OLDHAM COUNTY WATER DISTRICT NO. 1

Attest:

By

M. C. Stoess
Chairman

J. Roger Smith
Secretary

LOUISVILLE WATER COMPANY

Attest:

By

Thomas J. E.
President

William F. B. B.
Secretary-Treasurer

STATE OF KENTUCKY)

) SS

COUNTY OF OLDHAM)

I, a Notary Public in and for the State and County aforesaid, hereby certify that the foregoing Lease was produced to me in said State and County by Milton C. Stoess and J. Roger Smith, personally known to me to be the Chairman and Secretary, respectively, of OLDHAM COUNTY WATER DISTRICT NO. 1, who stated that said instrument was signed by them on behalf of said District pursuant to a resolution adopted by its commissioners, and acknowledged said Lease to be the act and deed of said District.

WITNESS my signature and seal of office this 9th
day of July, 1964.

My commission expires Aug 19, 1964.

[Signature]
Notary Public, Oldham County, Kentucky

STATE OF KENTUCKY)
) SS
COUNTY OF JEFFERSON)

I, a Notary Public in and for the State and County afore-
said, hereby certify that the foregoing Lease was produced to me
in said State and County by Horace S. Estey and William E. Pickler,
personally known to me to be the President and Secretary-Treasurer,
respectively, of LOUISVILLE WATER COMPANY, a Kentucky corporation,
who stated that said instrument was signed and sealed by them on
behalf of said corporation pursuant to authority conferred by the
Board of Water Works of the City of Louisville, and acknowledged
said Lease to be the act and deed of said corporation.

WITNESS my signature and seal of office this 29th day
of July, 1964.

My commission expires April 28, 1966.

Elizabeth A. Lunsford
Notary Public, Jefferson County, Kentucky

INSTALLATION CHARGES WHERE APPLICABLE

<u>SIZE</u>	<u>APPROX GPM</u>	<u>LWC FLAT CHARGE</u>	<u>OCWD CHARGES</u>	<u>TOTAL</u>
3/4"	30	\$ 450.00	\$ 300.00	\$ 750.00
1"	50	\$ 600.00	\$ 300.00	\$ 900.00
1 1/2"	100	\$2,000.00	\$ 300.00	\$2,300.00
2"	160	\$2,500.00	\$ 300.00	\$2,800.00
4"X3"	300	*	\$ 300.00	
4"X4"	600	*	\$ 300.00	
6"	1,600	*	\$ 300.00	
8"	2,800	*	\$ 300.00	
4" Fire Protection		\$3,500.00	\$ 300.00	\$3,800.00
6" Fire Protection		\$4,000.00	\$ 300.00	\$4,300.00
8" Fire Protection		\$5,500.00	\$ 300.00	\$5,800.00
10" Fire Protection		*	\$ 300.00	
12" Fire Protection		*	\$ 300.00	
6" Fire Hydrant, Single Pumper		*	\$ 300.00	
6" Fire Hydrant, Double Pumper		*	\$ 300.00	
Temporary meter for use on fire hydrant - 3/4" - \$220.00				
1 1/2" - \$370.00				
2" - \$520.00				

* Fee Determined At Time of Application

Fire Flow Testing Fee - \$175.00

NOTE:

1. Flat charges no adjustment for normal installation.
2. Job orders will be written for service installations larger than 1-inch.
3. On the relocation or enlargement of any size existing service, the fee is to be a flat charge with no adjustment
4. All fire hydrant installations will have the cost estimated. The estimated cost will be the flat charge with no adjustment.
5. A reduction in fee of \$25.00 for each 3/4" service where they can be installed as a twin or siamese service, that is with two meters in one vault at the common property line between two lots.

Total cost will not exceed the amount of the fee collected.

EXHIBIT B

**BOARD OF WATER WORKS
RULES AND REGULATIONS**

RATE SCHEDULE

**EFFECTIVE
FEBRUARY 1, 1990**

EXHIBIT C

WATER RATES

LOUISVILLE WATER COMPANY, LOUISVILLE, KENTUCKY

BOARD OF WATER WORKS RULES AND REGULATIONS

RATES 6.00

6.01 For the purpose of classifying revenues, and to provide for different classes of rates, there shall be established seven (7) classes of customers and three (3) areas of service. The classes of customers shall be identified as Residential, Commercial, Industrial, Fire Service, Fire Hydrants, Municipal, and Utilities Purchasing Water for Resale. The areas of service shall be identified as the area served by the Company and lying within the County of Jefferson, the area served directly by the Company through Company-owned facilities and lying outside the County of Jefferson and the area lying outside the County of Jefferson and served directly by the Company through leased facilities and where a surcharge is imposed by the lessor.

6.02 The rate charge for metered water service shall be comprised of two components which will represent:

(1) the physical service provided and the potential demand of the customer as determined by the capacity or capacities of the meter(s) installed. The charge for each meter shall be the product of the service charge for 5/8" x 3/4" meter and the service charge factor listed herein.

<u>MONTHLY SERVICE CHARGE FACTOR</u>	
<u>METER SIZE</u>	<u>SERVICE CHARGE FACTOR</u>
5/8"x3/4"	1.00
1"	2.50
1 1/2"	5.00
2"	8.00
3"	17.50
4"	30.00
6"	70.00
8"	125.00
10"	190.00
12"	290.00
16"	575.00

(2) the water consumption of the customer as registered on the meter(s) being used in the billing period.

The customer's bill for the billing period shall be the total of the service and commodity charge for that period.

6.03 General Rate Inside the County of Jefferson and Leased Facilities Outside the County of Jefferson.

All classes of customers taking metered service directly from the Company and situated (1) within the County of Jefferson or (2) outside the County of Jefferson and served through facilities owned by others but leased by the Company, and where a surcharge is imposed by the lessor, excepting the utilities purchasing water for resale, and excepting the municipal customers who shall be served as provided in KRS 96.270 (3024a-6) at no cost to the customer, and excepting publicly owned fire hydrants per se, shall be charged in accordance with the following schedule.

<u>SERVICE CHARGE MINIMUM MONTHLY BILL</u>	
<u>METER SIZE</u>	<u>SERVICE CHARGE MINIMUM MONTHLY BILL</u>
5/8"x3/4"	\$3.15
1"	7.88
1 1/2"	15.75
2"	25.20
3"	55.13
4"	94.50
6"	220.50
8"	393.75
10"	598.50
12"	913.50
16"	1,811.25

COMMODITY CHARGE

The charge for monthly usage shall be computed in accordance with the following schedule:

	Thousand Gallons	Per Month		
First	3	at	\$1.03	Per 1,000 gallons
Next	3	at	1.16	Per 1,000 gallons
Next	194	at	1.31	Per 1,000 gallons
Next	1,300	at	1.21	Per 1,000 gallons
Next	3,500	at	1.07	Per 1,000 gallons
Next	5,000	at	.98	Per 1,000 gallons
All consumptions in excess of	10,000	at	.88	Per 1,000 gallons

SCHEDULE OF FIRE SERVICE CHARGES

The charge for fire service, where water may be taken for fire protection only, shall be in accordance with the following schedule. This charge will also be applicable to such fire hydrants as may be provided by private agencies.

Size:	4"	6"	8"	10"	12"
Monthly Charge:	\$8.25	\$16.75	\$32.00	\$63.50	\$128.00

6.04 General Rate Outside the County of Jefferson

All classes of customers taking metered services directly from the Company and situated outside the County of Jefferson, and served through facilities owned by the Company, excepting utilities purchasing water for resale, and excepting publicly owned fire hydrants, shall be charged in accordance with the following schedule:

<u>SERVICE CHARGE MINIMUM MONTHLY BILL</u>	
<u>METER SIZE</u>	<u>SERVICE CHARGE MINIMUM MONTHLY BILL</u>
5/8"x3/4"	\$3.15
1"	7.88
1 1/2"	15.75
2"	25.20
3"	55.13
4"	94.50
6"	220.50
8"	393.75
10"	598.50
12"	913.50
16"	1,811.25

COMMODITY CHARGE

The charge for monthly usage shall be computed in accordance with the following schedule:

	Thousand Gallons Per Month			
First	200	at	\$1.95	Per 1,000 gallons
Next	1,300	at	1.46	Per 1,000 gallons
Next	1,500	at	1.10	Per 1,000 gallons

SCHEDULE OF FIRE SERVICE CHARGES

The charge for fire service, where water may be taken for fire protection only, shall be in accordance with the following schedule. This charge will also be applicable to such fire hydrants as may be provided by private agencies.

Size:	4"	6"	8"	10"	12"
Monthly Charge:	\$8.50	\$17.25	\$34.00	\$69.00	\$137.50

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 90-228 DATED 10/01/91

The following rates and charges are prescribed for the customers in the area served by Oldham County Water District No 1. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

Disconnect/Field Collection Charge	\$11.00*
Reconnect Charge	11.00*
Returned Check Charge	10.00

- * If the District's representative is required to call at the consumer's premises for the purpose of discontinuing water service for non-payment of a water bill, a charge of Eleven Dollars (\$11.00) shall be imposed, which, together with the full amount of the bill, must be paid at that time or water service will be discontinued. In the event of the discontinuance of the water service, thereby making it necessary for the District's representative to call at the premises for the second time for the restoration of service, an additional charge of Eleven Dollars (\$11.00) shall be imposed and water service will not be restored until this charge, together with all other amounts due the District from the customer, shall have been paid; provided, however, that the provisions set forth herein shall be waived on the occasion of the first such discontinuance of service to any particular customer.